

FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER, DE: 42

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NO: 07-cv-006607 (VM)

ANA MARGARITA MARTINEZ,

Plaintiff,

v.

THE REPUBLIC OF CUBA,

Defendant,

v.

**UNICREDIT BANK, AG, New York Branch
and UNICREDIT S.P.A., New York Branch,**

Garnishees.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: 9/6/16
DATE FILED: 9/6/16

AMENDED TURNOVER ORDER¹

Before this Court is the Plaintiff's supplemental, under seal verified motion for turnover of blocked funds in at UNICREDIT BANK, AG, New York Branch and UNICREDIT S.p.A., New York Branch ("UNICREDIT" or "Garnishee") identified in the parties submissions as Accounts One and Two, filed pursuant to Federal Rule of Civil Procedure 69 and N.Y. C.P.L.R. § 5225(b) ("Motion"), and the parties' letter motion requesting the amendment to the Court's Turnover Order entered on August 5, 2016 (DE: 121). The Court,

¹ Pursuant to Court's Protective Order entered on September 30, 2014 at DE: 42, this Order shall be filed under seal.

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having reviewed said Supplemental Motion, agreed letter motion and submissions in this matter, hereby finds:

1. The Plaintiff served the Defendant, Garnishee, Garnishee's account holder of Accounts One and Two, and the Department of Justice with the Request for Admissions and Plaintiff's Supplemental Motion, and no objection has been filed to the relief sought in the Supplemental Motion;
2. The Plaintiff further has provided notice of this action and this Motion to the Defendant, and the Defendant has not appeared;
3. Plaintiff's Motion establishes that the Turnover Assets itemized in Accounts One and Two of Exhibit "D" of the Motion totaling \$1,156,520.87 plus accrued interest after September 5, 2014, are subject to turnover pursuant to § 201 of the Terrorism Risk Insurance Act of 2002 ("TRIA"), Pub. L. No. 107-297, 116 Stat. 2337, codified at 28 U.S.C. § 1610 and pursuant to N.Y. C.P.L.R. § 5225, in partial satisfaction of Plaintiff's judgment.

THEREFORE, it is ORDERED and ADJUDGED as follows:

1. Plaintiff's Supplemental Motion is GRANTED.
2. Summary judgment is hereby entered in favor of Plaintiff against Garnishee.
3. The Court finds that the Turnover Assets are subject to turnover pursuant to TRIA.
4. Within five (5) business days of the Clerk's docketing of this

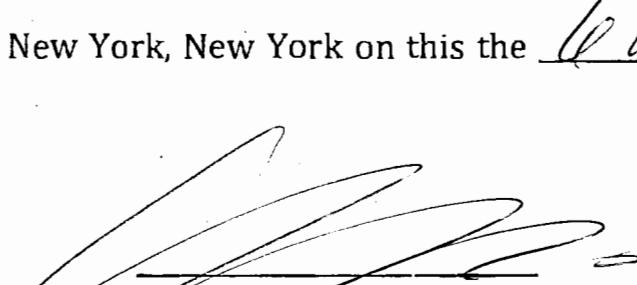
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Order, the Garnishee shall pay and turn over to Plaintiff \$1,156,520.87, plus all accrued interest thereon from September 5, 2014, by wire transfer to Rhonda A. Anderson, P.A. Trust Account pursuant to wire instructions to be furnished by Plaintiff's counsel to Garnishee, in partial satisfaction of the Plaintiff's judgment of December 7, 2007 (DE: 16).

5. Upon payment and turnover of the Turnover Assets, Garnishee shall be discharged and released from all liability and obligations as to the accounts identified in the Motion and disclosed to Plaintiff's counsel.

6. Each and every party to this proceeding, and any agency or instrumentality of the party to this proceeding, shall be, and hereby is restrained and enjoined from instituting or prosecuting any action against Garnishee in any jurisdiction arising from or relating to the accounts identified in the Supplemental Motion or Motion for Turnover and disclosed to Plaintiff's counsel.

DONE AND ORDERED at New York, New York on this 6th day of September, 2016.



VICTOR MARRERO
U.S. DISTRICT COURT JUDGE

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August 29, 2016

Sent via Facsimile: (212) 805-6382

Honorable Victor Marrero
United States District Court Judge
U. S. District Court, Southern District of New York
500 Pearl Street, Suite 660
New York, New York 10007

Re: *Martinez v. Republic of Cuba*, Case No. 07-cv-6607
Agreed Amended Order (Under Seal) re Garnishee, Unicredit Bank

Dear Judge Marrero:

The undersigned is writing as counsel for Plaintiff Ana Margarita Martinez regarding the above-captioned matter. On July 18, 2016, the Plaintiff filed a Motion for Turnover with regard to the outstanding writ against Garnishee, Unicredit Bank (DE:117), which this Court granted on August 5, 2016 (DE:121). The Garnishee has requested the Turnover Order be amended to delete the words "to Plaintiff" in the first and two lines of Paragraph 5, and add the following at Paragraph 6 in the attached proposed amended order:

Each and every party to this proceeding, and any agency or instrumentality of the party to this proceeding, shall be, and hereby is restrained and enjoined from instituting or prosecuting any action against Garnishee in any jurisdiction arising from or relating to the accounts identified in the Supplemental Motion or Motion for Turnover and disclosed to Plaintiff's counsel.

The Plaintiff agrees and stipulates that the requested language should be added to the Court's Order. A proposed order is submitted with the requested revisions for the Court's consideration. Should the Court have any questions, please feel free to contact Plaintiff's counsel, Rhonda A. Anderson at (305) 567-3004 or counsel for Unicredit Bank, Kenneth Caruso, at (212) 819-8200.

Respectfully submitted,

Rhonda A. Anderson
Rhonda A. Anderson

KCA Stipulated and Agreed to on August 29, 2016 by:

Kenneth Caruso
Kenneth Caruso, Counsel for Garnishee